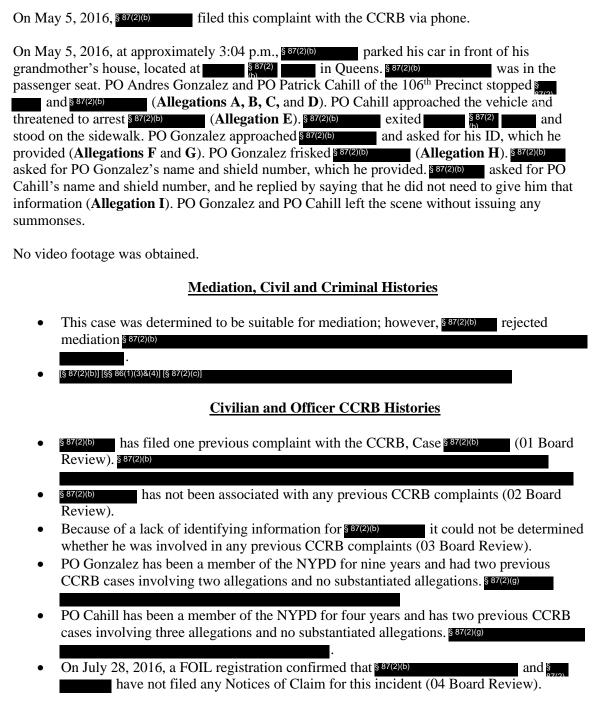
CCRB INVESTIGATIVE RECOMMENDATION

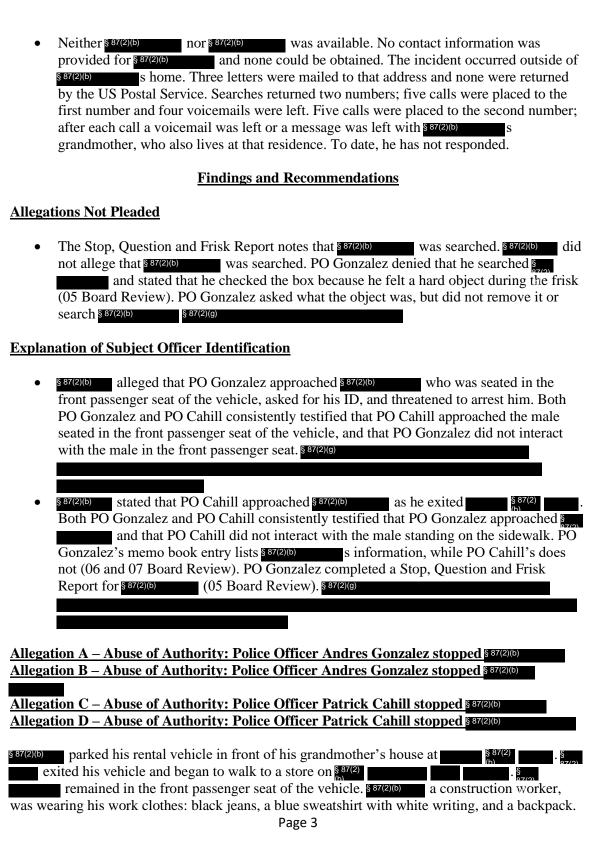
Investigator:		Team:	CCRB Case #:		Force		Discourt.	☐ U.S.
Nora Chanko		Squad #3	201603886		Abuse		O.L.	☐ Injury
Incident Date(s)		Location of Incident:		Pı	recinct:	18	Mo. SOL	EO SOL
Thursday, 05/05/2016 3:04 PM		§ 87(2)(b)			106	1	1/5/2017	11/5/2017
Date/Time CV Reported		CV Reported At:	How CV Reported:]	Date/Time	Rece	ived at CCF	RB
Thu, 05/05/2016 3:15 PM		CCRB Phone		Thu, 05/05/2016 3:15 PM				
Complainant/Victim	Type	Home Addre	ess					
Subject Officer(s)	Shield	TaxID	Command					
1. POM Andres Gonzalez	18072	943311	106 PCT					
2. POM Patrick Cahill	24600	952527	106 PCT					
Officer(s)	Allegati	on			Inve	stiga	tor Recon	nmendation
A.POM Andres Gonzalez	Abuse: I	Police Officer Andres Go	onzalez stopped § 87(2)	(b)				
B.POM Andres Gonzalez	Abuse: I	Police Officer Andres Go	onzalez stopped § 87(2)	(b)				
C.POM Patrick Cahill	Abuse: I	Police Officer Patrick Ca	hill stopped § 87(2)(b)					
D.POM Patrick Cahill	Abuse: Police Officer Patrick Cahill stopped § 87(2)(b)							
E.POM Andres Gonzalez	Abuse: Police Officer Andres Gonzalez threatened to arrest § 87(2)(b)							
F.POM Andres Gonzalez	Abuse: Police Officer Andres Gonzalez stopped \$87(2)(b)							
G.POM Patrick Cahill	Abuse: Police Officer Patrick Cahill stopped § 87(2)(b)							
H.POM Andres Gonzalez	Abuse: Police Officer Andres Gonzalez frisked §87(2)(b)							
I.POM Patrick Cahill		Police Officer Patrick Ca d shield number to § 87(2)(1		de hi	s			
§ 87(2)(g), § 87(4-b)								

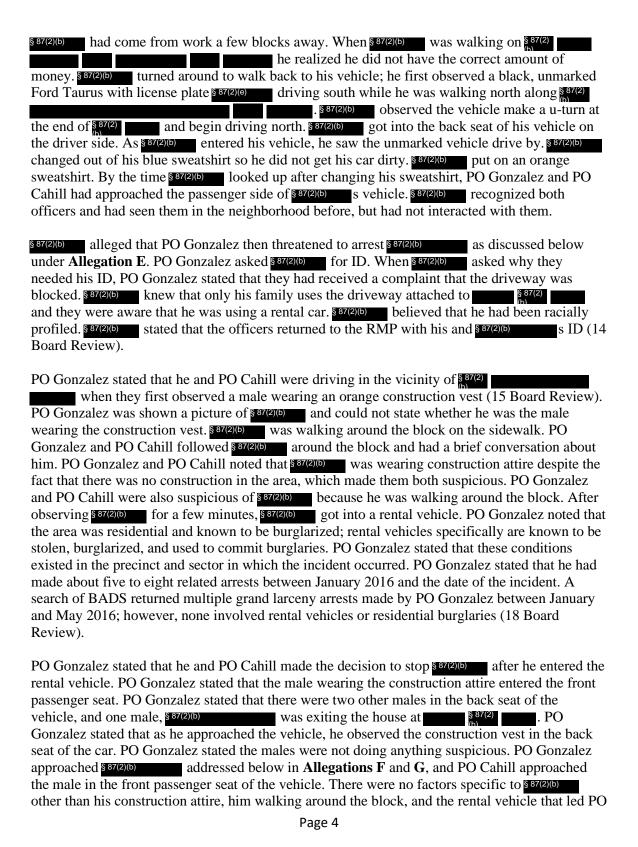
Case Summary

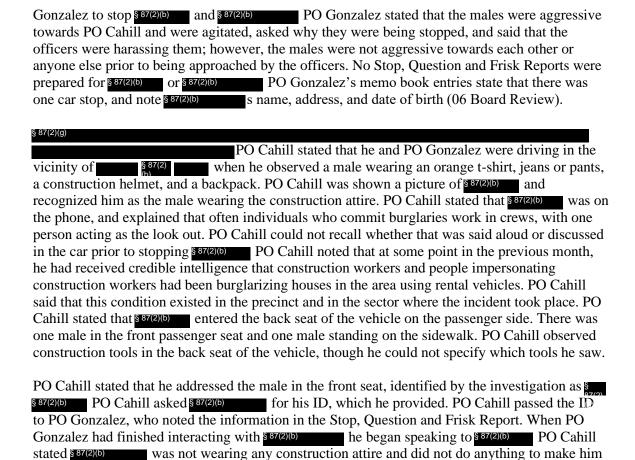


Potential Issues

Page 2







The Event documents list the event as "10V2," a possible crime involving a suspicious vehicle outside; however, they did not show any calls about a blocked driveway (08 Board Review). The Burglary, Robbery, and Grand Larceny Patterns Spreadsheet from the 106th Precinct from January 1, 2016, to June 26, 2016, did not show any patterns involving rental cars, construction workers, or individuals impersonating construction workers in any sector prior to May 5, 2016 (09 Board Review).

suspicious. PO Cahill had no memo book entries related to this incident (07 Board Review).

<u>People v. DeBour</u> states that an officer may stop an individual if they have individualized reasonable suspicion that a felony or misdemeanor has been committed, but notes that behavior susceptible to an innocent interpretation does not generate founded or reasonable suspicion that criminal activity is afoot (<u>People v. DeBour</u>, 40 N.Y., N.Y.2d 210 (1976)) (10 Board Review). <u>People v. Hampton</u> states that location alone does not justify police intrusion against citizens who live, work, or travel in high crime areas, and that behavior susceptible of an innocent interpretation does not generate founded or reasonable suspicion that criminal activity is afoot (<u>People v. Hampton</u>, 200 AD2d 466 (1994)) (19 Board Review).

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§ 87(2)(g)
Allegation E - Abuse of Authority: Police Officer Patrick Cahill threatened to arrest
§ 87(2)(b)
soid that DO Council a council of Savana and Savana
said that PO Gonzalez approached \$87(2)(b) who was seated in the front passenger seat, and asked him for his ID. \$87(2)(b) asked why he needed to provide ID because he was
not doing anything and was not driving the vehicle. PO Gonzalez asked for his ID again, and said,
"We can do this the hard way, take you to the precinct, run your name, and figure out who you
are, or do it the easy way. Do you have ID?" sa7(2)(b) then provided his ID. sa7(2)(b) did
not provide a statement to the investigation.
PO Cahill stated that he approached §87(2)(b) asked him who he was, where he was coming
from and where he was going, and what he was doing. PO Cahill stated that \$87(2)(b) was not
very cooperative, but that when he asked for ID, §87(2)(b) provided it. PO Cahill did not hear
Page 6

PO Gonzalez make a statement to the effect of "We can take you to the precinct, run your name, and figure out who you are that way," and did not recall whether he made a statement to that effect. PO Cahill did not threaten to arrest [557(2)(5)] PO Gonzalez denied speaking to the male seated in the front seat. PO Gonzalez denied that he or PO Cahill told the males that they could take them to the station house and run their names. PO Gonzalez did not recall whether PO Cahill made a statement to that effect.
§ 87(2)(g)
Allegation F – Abuse of Authority: Police Officer Andres Gonzalez stopped § 87(2)(b)
Allegation G – Abuse of Authority: Police Officer Patrick Cahill stopped 897(2)(b) Allegation H – Abuse of Authority: Police Officer Andres Gonzalez frisked 897(2)(b)
stated that PO Gonzalez and PO Cahill had returned to their RMP with his and stated that PO Gonzalez and PO Cahill had returned to their RMP with his and stated to the sidewalk. PO Gonzalez and PO Cahill walked towards stated was stated and PO Cahill asked for stated stated asked why the officers needed his ID when they had seen him exit the residence, but provided his ID anyway. stated why the officers needed his ID when they had seen him exit the residence, but provided his ID anyway. stated that PO Gonzalez and PO Cahill walked towards stated why the officers needed his ID when they had seen him exit the residence, but provided his ID anyway. stated that PO Gonzalez and PO Cahill walked towards stated why the officers needed his ID when they had seen him exit the residence, but provided his ID anyway. stated that PO Gonzalez and PO Cahill walked towards stated why the officers needed his ID when they had seen him exit the residence, but provided his ID anyway. stated why the officers needed his ID when they had seen him exit the residence, but provided his ID anyway. stated why the officers needed his ID when they had seen him exit the residence, but provided his ID anyway. stated why the officers needed his ID when they had seen him exit the residence, but provided his ID anyway. stated why the officers needed his ID when they had seen him exit the residence, but provided his ID anyway. stated why the officers needed his ID when they had seen him exit the residence, but provided his ID anyway. stated why the officers needed his ID when they had seen him exit the residence, but provided his ID anyway. stated why the officers needed his ID anyway.
did not allege that PO Cahill or PO Gonzalez frisked 887(2)(b) Question and Frisk Report prepared by PO Gonzalez notes that 887(2)(b) PO Gonzalez confirmed in his subsequent interview (05 Board Review).
PO Gonzalez stated that as he and PO Cahill approached the rental vehicle, \$87(2)(b) exited and began walking towards the rental vehicle. PO Gonzalez approached \$37(2)(b) resided or belonged at that residence, and did not know who he was. PO Gonzalez stated that \$87(2)(b) was not wearing any construction gear and there was nothing about \$87(2)(b) that made him suspicious. PO Gonzalez asked \$37(2)(b) if he lived there and asked him what was going on. \$87(2)(b) responded, "Why? Why am I being stopped?" When asked if there was anything about \$87(2)(b) s appearance
responded to his question, "Do you live here," made him suspect that \$87(2)(b) responded to his question, "Do you live here," made him suspect that \$87(2)(b) responded to his question, "Do you live here," made him suspect that \$87(2)(b) responded to his question, "Do you live here," made him suspect that \$87(2)(b) responded to his question, "Do you live here," made him suspect that \$87(2)(b) responded to his question, "Do you live here," made him suspect that \$87(2)(b) responded to his question, "Do you live here," made him suspect that \$87(2)(b) responded to his question, "Do you live here," made him suspect that \$87(2)(b) responded to his question, "Do you live here," made him suspect that \$87(2)(b) responded to his question, "Do you live here," made him suspect that \$87(2)(b) responded to his question, "Do you live here," made him suspect that \$87(2)(b) responded to his question, "Do you live here," made him suspect that \$887(2)(b) responded to his question, "Do you live here," made him suspect that \$887(2)(b) responded to his question, "Do you live here," made him suspect that \$887(2)(b) responded to his question, "Do you live here," made him suspect that \$887(2)(b) responded to his question, "Do you live here," made him suspect that \$887(2)(b) responded to his question, "Do you live here," made him suspect that \$887(2)(b) responded to his question, "Do you live here," made him suspect that \$887(2)(b) responded to his question, "Do you live here," made him suspect that \$887(2)(b) responded to his question, "Do you live here," made him suspect that \$887(2)(b) responded to his question, "Po Gonzalez" first statement, he said that \$887(2)(b) responded to his question, "Po Gonzalez" first statement, he said that \$887(2)(b) responded to his question, he had a property him suspect that \$887(2)(b) responded to his question, he had a property him suspect that \$887(2)(b) responded to his question, he had a property him suspect that \$887(2)(b) responded to his question, he had a property him suspect that \$887(2)(b) r

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In PO Gonzalez's second statement, he stated that he frisked \$87(2)(0) after explaining that it was a burglarized area and he needed to verify his address but prior to asking him for his ID (17 Board Review). PO Gonzalez did not observe any bulges prior to frisking \$87(2)(0) PO Gonzalez stated that he feared for his and his partner's safety because they were in a heavily burglarized area, and people who commit burglaries often carry tools or weapons. PO Gonzalez told \$87(2)(0) that he was going to check him for weapons. \$87(2)(0) did not say anything or object, but if he had, PO Gonzalez would not have frisked him. PO Gonzalez touched \$37(2)(0) s chest, waistband, and front and back pants pockets. PO Gonzalez did not find anything, enter any of \$87(2)(0) s pockets, or search \$87(2)(0) PO Gonzalez stated that after he frisked \$87(2)(0) he asked for his ID. \$87(2)(0) PO Gonzalez was shown a copy of the Stop Question and Erisk Report that he prepared When

noted that he had a juice pack in his hand. PO Gonzalez said that he then asked for § 37(2)(b)

PO Gonzalez was shown a copy of the Stop, Question and Frisk Report that he prepared. When asked why the "Furtive movements" box was checked, PO Gonzalez stated that \$87(2)(5) was very hesitant. When asked to elaborate, PO Gonzalez explained that \$87(2)(5) walked quickly out of the house towards PO Gonzalez, and kept moving his body during the frisk. PO Gonzalez stated that \$87(2)(5) did not make any furtive movements prior to being patted down. When asked to elaborate on the actions indicative of engaging in violent crime, PO Gonzalez stated that there were no actions or factors other than the fact that he was unsure about whether \$87(2)(5) resided at that address, and that he walked towards the rental vehicle \$87(2)(5) had entered.

PO Cahill stated that \$87(2)(b) was not wearing any construction attire and was not doing anything suspicious.

The Stop, Question and Frisk Report listed Grand Larceny Auto as the suspected crime, and "Actions indicative of engaging in violent crimes" as the only circumstance that led to the stop. The Stop, Question and Frisk Report noted that [887(2)(6)] was frisked, and engaged in furtive movements. "Area has high incidence of reported offense of type under investigation" was listed under Additional Circumstances/Factors. The Burglary, Robbery, and Grand Larceny Patterns Spreadsheet from the 106th Precinct from January 1, 2016, to June 29, 2016, did not show any crime patterns involving rental cars, construction workers, or individuals impersonating construction workers prior to May 5, 2016 (09 Board Review).

People v. DeBour states that an officer may stop an individual if they have individualized reasonable suspicion that a felony or misdemeanor has been committed, but notes that behavior susceptible to an innocent interpretation does not generate founded or reasonable suspicion that criminal activity is afoot. People v. DeBour also states that an officer may frisk an individual during a Level 3 stop if they have reasonable suspicion that they are in danger of physical injury, or that the subject is armed and dangerous (People v. DeBour, 40 N.Y., N.Y.2d 210 (1976)) (10 Board Review). Patrol Guide Procedure 212-11 authorizes an officer to stop an individual when they reasonably suspect a person has committed, is committing, or is about to commit a felony or Penal Law misdemeanor. Patrol Guide Procedure 212-11 also authorizes an officer to frisk an individual when they reasonably believe that they or others are in danger of physical injury (11

Page 8

Board Review). <u>People v. Hampton</u> states that presence in a high crime area alone does not justify police intrusion against citizens who live, work, or travel in high crime areas (<u>People v. Hampton</u>, 200 AD2d 466 (1994)) (19 Board Review).

§ 87(2)(g)
•
Allegation I – Abuse of Authority: Police Officer Patrick Cahill refused to provide his name
and shield number to § 87(2)(b)
POWOW
stated that when PO Gonzalez and PO Cahill went back to their vehicle, he called his
ex-girlfriend's mother, \$87(2)(b) When the officers returned to svehicle, \$87(2)(b) asked PO Gonzalez for his information and PO Gonzalez provided
s vehicle, 887(2)(b) asked PO Gonzalez for his information and PO Gonzalez provided his name and shield number. 887(2)(b) stated that he asked PO Cahill for his name and shield
number. PO Cahill said, "I don't need to give you my information," and did not provide his name
or shield number. PO Cahill also told \$87(2)(0) to get off the phone and asked why he was calling
his mother. § 87(2)(b) did not ask PO Cahill for his name and shield number again, because
§87(2)(b) told him not to worry about it. §87(2)(b) asked §87(2)(b) if he could see a badge. PO
· · ·
Page 9

Cahill had his shield displayed on his right hip. §87(2)(b) documented PO Cahill's shield number as 20600.

PO Cahill, shield number 24600, stated that one of the males asked for his information and PO Gonzalez's information, and said that they both provided their information verbally. PO Cahill did not hear any of the males say that they could not hear the information. PO Cahill did not recall whether the males asked him or PO Gonzalez to repeat their information, or whether they said that he or PO Gonzalez did not provide their names and shield numbers. PO Cahill did not recall asking strong to get off the phone. PO Cahill did not prepare a memo book entry related to this incident. When asked why, he said that it was PO Gonzalez's stop and explained that when his partner makes a stop and notes civilians' information, he does not.

PO Gonzalez stated that the male on the phone in the back seat asked for his name and shield number, and he provided it. PO Gonzalez stated that one of the males asked for PO Cahill's name and shield number, and PO Cahill provided the information.

P.G. 203-09 requires officers to courteously and clearly state their name, rank, shield, and command to anyone who requests them to do so (13 Board Review).

§ 87(2)(g)	
§ 87(2)(g), § 87(4-b)	

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§ 87(2)(g), § 87(4-b)			
Squad: 3			
Investigator:	Signature	Print	Date
Squad Leader: _	Title/Signature	Print	Date
Reviewer:	Title/Signature	Print	 Date